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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,588	03/15/2004	Thomas West	NORA-0001	1649
23550	7590	10/05/2005	EXAMINER	
HOFFMAN WARNICK & D'ALESSANDRO, LLC			ELKINS, GARY E	
75 STATE STREET			ART UNIT	
14TH FL			PAPER NUMBER	
ALBANY, NY 12207			3727	

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/800,588	Applicant(s) WEST, THOMAS	
	Examiner Gary E. Elkins	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20040315</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 4-9 and 11-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 4, lines 3 and 5, “a side wall panel” and “a first and second opposing flaps” are each a double inclusion of an element insofar as the side wall panels and flaps were previously set forth in the claim.

In claim 9, “the third and fourth opposing flap” lacks antecedent basis and is unclear. Claim 8 defines a plurality of flaps.

In claim 11, line 1, “a first and second opposing member” is unclear with respect to how a single member is both first and second, i.e. a plurality of members appears to be the intended meaning.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Straub et al ‘175. Straub et al ‘175 discloses a box with a locking system including two locking flaps 30, 40 with trapezoidal tabs 34, 44 cut therein. It is noted that the grooves 33, 43 are each considered to extend both inwardly and outwardly dependent upon where one begins and ends,

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i.e. inwardly with respect to the outside edge of the tab and outwardly with respect to the inside of the groove or the inside of the panel. With respect to claim 3, note is made that at least a portion of each of the flaps 30, 40 resides on an outside of the bottom of the box.

4. Claims 1, 3, 4, 6 and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Farrell. Farrell discloses a box with a locking system including two locking flaps 6, 7 with trapezoidal tabs 10, 13 cut therein (note is made that the flap 6 extends to edge of the blank or web of material prior to cutting away the tab 10 during manufacture). It is noted that the grooves (formed on the sides of the tab 10, 15) are each considered to extend both inwardly and outwardly dependent upon where one begins and ends, i.e. inwardly with respect to the outside edge of the tab and outwardly with respect to the inside of the groove or the inside of the panel. With respect to claim 5, note is made of the folds 20 which permit interlocking of the flaps as claimed. With respect to claim 8, the third and fourth flaps 5 are shaped to permit their partial overlap with the panels 6 and 7 and formation of a substantially flat surface therewith as claimed.

5. Claims 1, 3, 4, 6, 8 and 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Kuchenbecker et al (fig. 6 emb). Kuchenbecker et al discloses a box with a locking system including two locking flaps 156, 158 with trapezoidal tabs (adjacent cut 138 central of panel 156; 145, respectively) cut therein. It is noted that the grooves are each considered to extend both inwardly and outwardly dependent upon where one begins and ends, i.e. inwardly with respect to the outside edge of the tab and outwardly with respect to the inside of the groove or the inside of the panel. With respect to claim 8, the third and fourth flaps 155, 157 are shaped to permit their partial overlap with the panels 156, 158 and formation of a substantially flat surface therewith as claimed. With respect to claims 12 and 13, note is made of the receiving tabs (135; unlabeled)

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on either side of the trapezoidal central tab in panel 156 which receive the tab 145 and the pair of locking tabs (140a; unlabeled on either side of the tab 145) which serve to lock the tabs 135 when secured.

6. Claims 1, 3, 4, 6-8, 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Countee. Countee discloses a box with a locking system including two locking flaps 16, 18 with trapezoidal tabs (adjacent 125; 127, respectively) cut therein. It is noted that the grooves (to the sides of the trapezoidal tab in panel 16) are each considered to extend both inwardly and outwardly dependent upon where one begins and ends, i.e. inwardly with respect to the outside edge of the panel or tab and outwardly with respect to the inside of the groove or the inside of the panel. With respect to claim 8, the third and fourth flaps 20c, 22c are shaped to permit their partial overlap with the panels 16, 18 and formation of a substantially flat surface therewith as claimed. With respect to claim 7, note is made of the shape of the box in fig. 1.

7. Claims 1, 3, 4, 6, 8 and 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Laubenheimer (fig. 6 emb). Laubenheimer discloses a box with a locking system including two locking flaps (the larger flaps as depicted in fig. 6) with trapezoidal tabs cut therein. It is noted that the grooves are each considered to extend both inwardly and outwardly dependent upon where one begins and ends, i.e. inwardly with respect to the outside edge of the tab and outwardly with respect to the inside of the groove or the inside of the panel. With respect to claim 8, the third and fourth flaps (the smaller flaps in fig. 6) are shaped to permit their partial overlap with the larger flaps and formation of a substantially flat surface therewith as claimed. With respect to claim 9, the smaller flaps are considered to be substantially "L-shaped" as

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claimed. With respect to claim 12, note is made of the tabs formed adjacent the center tab in the larger flap to the left in fig. 6.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Laubenheimer (fig. 6 emb) in view of Ostwald. Laubenheimer discloses all structure of the claimed box except diagonal folds projecting from the grooves forming the generally trapezoidal tab in the second flap. Ostwald teaches that it is known to make interlocking flaps where a central tab engages and edge of a panel with diagonal foldlines to facilitate easier engagement of the interlock. It would have been obvious to make the interlocking first and second flaps in Laubenheimer with diagonal folds as taught by Ostwald to facilitate easier engagement of the bottom flaps and engagement of the receiving tabs with the opposing flap.

Conclusion

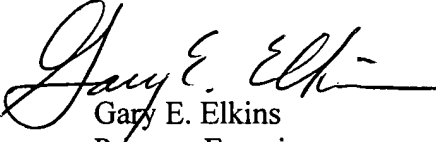
The remaining cited prior art is illustrative of the general state of the art.

In order to reduce pendency and avoid potential delays, Technology Center 3700 is encouraging FAXing of responses in Office Actions to (571)273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by Applicants who authorize charges to a PTO deposit account. Please identify the Examiner and art unit at the top of your cover sheet.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. Also, copies of an office action or other file information may be obtained from the Private PAIR system. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions regarding access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communication from the Examiner should be directed to Gary Elkins at telephone number (571)272-4537. The Examiner can normally be reached Monday through Thursday.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Nathan Newhouse can be reached at (571)272-4544.


Gary E. Elkins
Primary Examiner
Art Unit 3727

gee
03 October 2005